

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Digital Output Protection Technology and Recording Method Certifications)	MB Docket No. 04-61
)	
High Bandwidth Digital Content Protection)	

**RESPONSE TO THE APPLICATION OF DIGITAL CONTENT PROTECTION, LLC
FOR INTERIM AUTHORIZATION OF HIGH BANDWIDTH DIGITAL CONTENT
PROTECTION BY THE MOTION PICTURE ASSOCIATION OF AMERICA, INC.,
METRO-GOLDWYN-MAYER STUDIOS INC., PARAMOUNT PICTURES
CORPORATION, SONY PICTURES ENTERTAINMENT INC., TWENTIETH
CENTURY FOX FILM CORPORATION, UNIVERSAL CITY STUDIOS LLLP, THE
WALT DISNEY COMPANY, AND WARNER BROS. ENTERTAINMENT INC.**

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April 6, 2004

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The Motion Picture Association of America, Inc. (“MPAA”), Metro-Goldwyn-Mayer Studios Inc., Paramount Pictures Corporation, Sony Pictures Entertainment Inc., Twentieth Century Fox Film Corporation, Universal City Studios LLLP, the Walt Disney Company, and Warner Bros. Entertainment Inc. (the “MPAA Parties”) hereby file this response to the application of Digital Content Protection, LLC (“DCP”) to have High Bandwidth Digital Content Protection (“HDCP”) technology be authorized on an interim basis as an Authorized Digital Output Protection Technology for Marked and Unscreened Content (the “Application”). The MPAA Parties express support for the Application upon the expectation that DCP will respond to and/or clarify the issues raised below in its reply filing.

We note at the outset that this proceeding, and the Commission’s review of the content protection technologies, related functionalities, and licenses submitted in this proceeding, are concerned only with whether the proposal meets the interim requirements the Commission

identified for the protection of digital broadcast television content. This response, therefore, is based on the understanding that if the Commission decides to authorize HDCP on an interim basis for use in protecting Marked and Unscreened Content, that authorization extends only to the use of HDCP in the Broadcast Flag application.¹ In addition, we have reserved comment on the bulk of licensing terms, trusting that the marketplace negotiations of the agreements will produce acceptable business terms.

The MPAA Parties support the proposed technology — HDCP — as an example of the value of the marketplace criteria advocated repeatedly by the MPAA and others in this proceeding.² Under the Joint Proposal that the MPAA and others submitted to the Commission, HDCP would be authorized for inclusion in DTV devices because HDCP is used or approved by at least three studios for use with “New Release Content,” as that term is defined in the Joint Proposed Criteria for authorization as a digital output protection technology.

The underlying requirement for the authorization of content protection technologies is their ability to prevent of unauthorized redistribution. As the MPAA has explained elsewhere, any content protection technology must limit redistribution to the device’s Local Environment through the use of reasonable and affirmative constraints. HDCP places reasonable and affirmative constraints on the scope of redistribution of Marked and Unscreened Content because it is authorized for use only with interfaces, DVI and HDMI, which have physical limitations. Furthermore, HDCP is licensed only for use with a display or with a repeater for subsequent use

¹ For example, the interim authorization of a content protection technology would not determine in any way whether that technology appropriately protects content with copy restrictions delivered through high-definition analog outputs, which was not the subject of the Broadcast Flag proceeding.

² As the 5C companies, the MPAA, and other content providers stated in comments filed earlier in the Broadcast Flag proceeding, Commission should adopt standards and procedures that implement “a flexible, market-based approach under which a technology is authorized for Table A if it has been accepted in the relevant marketplace as a protection technology or it is just as effective as one that has.” Joint Initial Comments at 22; *see also* Comments of the Digital Transmission Licensing Administrator LLC (“5C”), MB Docket No. 02-230, at 10 (filed Dec. 6, 2002).

with a display, thus limiting the risk that content will be redistributed without authorization. In addition, data transported over a DVI or HDMI connection protected by HDCP is uncompressed, which poses technical difficulties for unauthorized redistribution of such content, including over the internet. Thus, subject to the comments below, HDCP effectively addresses the primary goals of the Broadcast Flag system.

The MPAA Parties request that DCP respond to and/or clarify the following issues in its reply filing in a satisfactory manner to facilitate approval of HDCP technology by the Commission in this proceeding.

I. HDCP Must Assert Upstream Controls over Downstream HDCP Functions

First, DCP must clarify how HDCP will ensure that an upstream Covered Demodulator Product properly controls invocation of HDCP. It is possible that HDCP may be authorized as a protected digital output downstream from another HDCP device. Due to the unique operational aspects of the HDCP technology, if HDCP upstream authorizes HDCP as a protected downstream output, any Covered Demodulator Product using HDCP must assert upstream control of the flow of Marked and Unscreened Content being sent to a HDCP function. This is because the HDCP function can not assert control over the output of (or prevent the delivery of) Marked and Unscreened Content to an HDCP device, but can only signal upstream to the Covered Demodulator Product when the HDCP function is actively engaged and able to deliver protected content. By way of example, when the HDCP function performs revocation processing and determines that a revoked HDCP-device is connected, the HDCP function will relay this information upstream, but does not have the ability to turn off its output to stop the flow of content to the revoked device. The HDCP technology relies on the upstream content protection

technology to turn off the flow of content when it receives this message from the HDCP function.

In order to ensure the security of a system with multiple devices and in particular the effectiveness of any revocation process, if HDCP is an authorized downstream output, DCP should require this upstream control function as part of its licensing terms with any adopter manufacturing a Covered Demodulator product.

For example, adding the following language to compliance rules could accomplish this:

A Covered Demodulator Product may pass Marked or Unscreened Content to an HDCP protected DVI or HDMI output, only if such Covered Demodulator Product (a) reads the received HDCP System Renewability Message, if present, and passes it to the HDCP Source function as a System Renewability Message, and (b) verifies that the HDCP Source Function is engaged and able to deliver Marked and Unscreened Content in protected form, which means (i) HDCP encryption is operational on such output, (ii) processing of the valid received System Renewability Message associated with such content, if any, has occurred as defined in the HDCP Specification and (iii) there is no HDCP Display Device or Repeater on such output whose Key Selection Vector is in such System Renewability Message. Capitalized terms used in the foregoing but not otherwise defined in the Specifications or the License shall have the meaning set forth in the HDCP Specification and HDCP License Agreement offered by Digital Content Protection, LLC.

II. DCP Should Clarify That HDCP Imposes No Obligations on Content Providers, Broadcasters, Consumers, or Others

The HDCP technology could become one of many technologies included in the Broadcast Flag system. All approved technologies will receive broadcast content marked with the Broadcast Flag and may be invoked or “triggered” in response to the Broadcast Flag in various devices, such as set-top boxes and digital video recorders. Content providers, broadcasters, and others currently cannot direct which approved technologies may received broadcast content marked with the Broadcast Flag or which approved technologies may get triggered by the

Broadcast Flag. Because content providers, broadcasters, and others exercise no direct control over the actual use of HDCP (or any of the other potential Broadcast Flag technologies), DCP should clarify that broadcasters, content providers, and others who do not take a license to the HDCP technology but who mark or broadcast content with a Broadcast Flag that triggers the HDCP technology are not subject to any obligations to DCP or the Founders. Furthermore, DCP should certify, as a condition of interim authorization, that no consumer transmitting or receiving content marked with the Broadcast Flag signal will incur any claim of obligation from DCP or the Founders.

III. DCP Should Clarify That the Terms of the HDCP License Agreement Apply to the Founders

An owner of a technology or a member of a technology consortium may have the ability under the consortium's rules to use the technology in its own products free of obligations or without taking a license. Alternatively, the member may control sufficient intellectual property to license decryption in downstream products independent of the consortium. Or a member may manufacture its own devices and not license the technology. DCP should clarify that for any use of the HDCP technology, the Founders (as defined in the Adopter license submitted by DCP) are obligated to comply with the compliance and robustness rules of the HDCP license agreement equivalently to any other Adopter licensee of the HDCP technology.

IV. The Means of Handling Revocation Lists Should Be Addressed

In order to effectuate revocation, it is necessary that a standardized means for delivering revocation information in the ATSC transport stream is developed and that FCC approval of any protected digital output and secure recording technology include obligations that Covered Demodulator Products and downstream devices properly receive, preserve, process, and convey

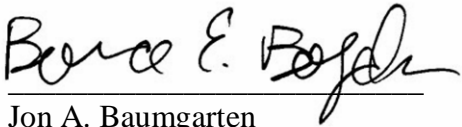
downstream, as appropriate, such information. In its reply, DCP should explain how it will deal with this issue.

* * *

We look forward to DCP's satisfactory responses on these issues, and to the Commission's ultimate authorization of HDCP on an interim basis for use in protecting digital broadcast content under the Broadcast Flag regulation.

Respectfully submitted,

THE MOTION PICTURE ASSOCIATION OF AMERICA, INC.
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